

## UNITED STATES DISTRICT COURT

for the  
District of New MexicoUnited States District Court  
Albuquerque, New MexicoMitchell R. Elfers  
Clerk of Court

In the Matter of the Search of  
*(Briefly describe the property to be searched  
 or identify the person by name and address)*  
 2 Miles North of Sanostee Chapter House, Sanostee,  
 New Mexico 87461  
 GPS Coordinates 36.4419444, -108.8572222

Case No. 22-MR-1513

## APPLICATION FOR A WARRANT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property *(identify the person or describe the property to be searched and give its location)*:

See Attachment A

located in the \_\_\_\_\_ District of \_\_\_\_\_ New Mexico \_\_\_\_\_, there is now concealed *(identify the person or describe the property to be seized)*:

See Attachment B, attached hereto and incorporated herein by reference

The basis for the search under Fed. R. Crim. P. 41(c) is *(check one or more)*:

- ☒ evidence of a crime;  
☐ contraband, fruits of crime, or other items illegally possessed;  
☒ property designed for use, intended for use, or used in committing a crime;  
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
18 U.S.C. § 1153	Offenses committed in Indian Country
18 U.S.C. § 113(a)(3)	Assault with a Dangerous Weapon

The application is based on these facts:

See attached affidavit, incorporated herein by reference.

- ☒ Continued on the attached sheet.  
☐ Delayed notice of \_\_\_\_\_ days *(give exact ending date if more than 30 days)*: \_\_\_\_\_ is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.



Applicant's signature

Lorraine Hardy, Special Agent  
 Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by  
 Telephonically Sworn and Electronically Signed *(specify reliable electronic means)*.

Date: October 14, 2022

City and state: Farmington, New Mexico



Judge's signature

B. Paul Briones, United States Magistrate Judge  
 Printed name and title

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

IN THE MATTER OF THE SEARCH OF:

2 Miles North of Sanostee Chapter House,  
Sanostee, New Mexico 87461

GPS Coordinates 36.4419444, -108.8572222

Case No. 22-MR-1513

**AFFIDAVIT**

I, Lorraine Hardy, being duly sworn, depose and state as follows:

**INTRODUCTION**

1. I am currently serving as an FBI Special Agent assigned to the FBI, Albuquerque Division, Farmington Resident Agency, where I primarily investigate crimes that occur in Indian Country to include homicide, aggravated assault, child sexual assault, kidnapping and rape. I have been with the FBI for approximately 3 years. I have received on the job training from other experienced agents, detectives, Indian Country criminal investigators, and tribal police officers. My investigative training and experience includes, but is not limited to, processing crime scenes, conducting surveillance, interviewing subjects, targets, and witnesses; writing affidavits for and executing search and arrest warrants; examining cellular telephones; managing confidential human sources and cooperating witnesses/defendants; serving subpoenas; collecting and reviewing evidence; and analyzing public records.

2. The information set forth in this affidavit has been derived from an investigation conducted by the Farmington Resident Agency of the FBI, the Navajo Nation Department of Criminal Investigations (NNDCI), and the Navajo Police Department

(NPD). During my investigation, I have developed information I believe to be reliable from the following sources:

- a. Information provided by the FBI, NNDCI, NPD, New Mexico Department of Corrections (DOC), New Mexico Motor Vehicle Division, and other law enforcement officials;
- b. Information provided by witnesses; and
- c. Records from the FBI National Crime Information Center (NCIC), Navajo Tribal Courts, New Mexico Courts, and the New Mexico Motor Vehicle Division

3. Because this affidavit is being submitted for the limited purpose of securing a search warrant, I have not included each and every fact known to me concerning this investigation. I have set forth facts that I believe are sufficient to establish probable cause for the requested warrant.

#### **RELEVANT STATUTES**

4. This investigation concerns alleged violations of the following:
  - a. Title 18 U.S.C. § 1153 – Offenses committed in Indian; and
  - b. Title 18 U.S.C. § 113(a)(3) – Assault with a Dangerous Weapon.

#### **PROBABLE CAUSE**

6. On October 6, 2022, Federal Bureau of Investigation (FBI) Farmington, Resident Agency, was notified by NNDCI of an assault that occurred in Sanostee, New Mexico. Melvin C. SMITH (hereinafter referred to as SMITH), year of birth 1961, physically assaulted V.W. (hereinafter referred to as JANE DOE), year of birth 1984, and C.N. (hereinafter referred to as JOHN DOE), year of birth 1958. NPD officers responded to Northern Navajo Medical Center (NNMC) in Shiprock, New Mexico and met with

JOHN DOE and JANE DOE. JOHN DOE told the NPD officer, SMITH attacked JANE DOE with a wooden walking stick after an argument JANE DOE had with D.S., year of birth 1960. D.S. is SMITH's wife and resides in the SMITH residence. SMITH hit JANE DOE repeatedly with the walking stick. JOHN DOE attempted to protect JANE DOE and was also hit by SMITH with the walking stick. SMITH told JOHN DOE he was going to go get his gun. SMITH walked over to his residence. JANE DOE and JOHN DOE immediately left in their vehicle.

7. Later that same evening, NPD Officers drove to the SMITH residence to locate SMITH. It appeared one building was a residence and the other was a Hogan. A Hogan is a traditional Navajo dwelling. Officers knocked on the doors of the residence and the Hogan and no one answered the knocks at the doors. SMITH did not come out or acknowledge the NPD Officer's presence.

8. According to statements provided by JANE DOE and JOHN DOE to FBI Agents, D.S. had invited JANE DOE and JOHN DOE to stay with them in their Hogan for approximately two weeks during the Shiprock Fair. JOHN DOE is D.S.'s brother and routinely comes to visit once or twice a year. The Hogan is located right in front of SMITH's residence on SMITH's property in Sanostee. D.S. and JANE DOE had been arguing on and off the last few days of their visit. D.S. did not approve of JOHN DOE's relationship with JANE DOE due to her being non-native. JANE DOE attempted to apologize to D.S. via text message, but D.S. wanted an in-person apology. Later that evening, D.S. told SMITH about her argument with JANE DOE. SMITH became angry and believed JANE DOE was being disrespectful to D.S. SMITH also did not believe JANE DOE had provided a sufficient apology to D.S.



9. D.S. stated she had been arguing with JANE DOE for several days. D.S. believed JANE DOE had hit JOHN DOE in the past and she did not approve of their relationship. JANE DOE was practicing native culture and D.S. found her behavior offensive because JANE DOE was non-native. SMITH did not like the arguing and told JANE DOE to leave. D.S. believed JOHN DOE talked JANE DOE into staying. SMITH came home late on the night of the incident and D.S. informed SMITH she was still arguing with JANE DOE. SMITH was angry JANE DOE was still there and walked over to the Hogan. D.S. stayed inside the residence but heard screaming coming from the Hogan. D.S. looked outside and saw SMITH leaving the Hogan with a walking stick in his hand. D.S. heard SMITH say he was going to use something worse than a stick as he walked into the residence. D.S. was concerned SMITH was going to retrieve his hunting rifle. JANE DOE and JOHN DOE drove off in a hurry in their vehicle.

10. During an interview with JANE DOE, it was learned on October 6, 2022, the night before JANE DOE and JOHN DOE planned to return to home; SMITH pounded on the door of the Hogan. JOHN DOE opened the door and SMITH pushed past him and entered the Hogan. SMITH walked over to JANE DOE and started to punch her in the head with his fists. SMITH was yelling at JANE DOE and picked up a five-foot-long walking stick, approximately 4 inches in diameter that was leaning against the wall in the Hogan. SMITH started hitting JANE DOE in the head with the walking stick over and over again. JOHN DOE wrapped his arms around JANE DOE's head to protect her from the blows. SMITH pushed both JANE DOE and JOHN DOE over and continued to hit them with the walking stick. JANE DOE believed she was struck with the walking stick over twenty times and believed SMITH was trying to kill her. JOHN DOE attempted to stop SMITH

from hitting them, but SMITH refused to listen. JOHN DOE pulled SMITH off JANE DOE. SMITH told JANE DOE he was going to get his weapon and walked over to his residence. JANE DOE believed SMITH went to retrieve a gun. JOHN DOE and JANE DOE grabbed their car keys and got into their vehicle. JANE DOE saw SMITH exiting the front door of his residence with a rifle as JOHN DOE and JANE DOE drove off. JOHN DOE called 911 as they drove towards Northern Navajo Medical Center in Shiprock, New Mexico.

11. NNMC medical records revealed JOHN DOE sustained a left arm fracture and multiple bumps and contusions. JOHN DOE was instructed to follow up with the Orthopedics Fracture Clinic the following week. JANE JOE sustained a forehead hematoma and multiple contusions<sup>1</sup>.

12. The incident under investigation occurred within the exterior boundaries of the Navajo Nation Indian Reservation. SMITH and JOHN DOE are enrolled members of the Navajo Nation.

13. In my training and experience, individuals who utilize weapons, including blunt objects such as walking sticks, to commit criminal offenses often conceal evidence of the weapon possession in their residences, or residences of relatives, friends, or associates, and areas surrounding their residences, to include, garages, carports, outbuildings, and vehicles parked on or near their property.

#### **THE SUBJECT PREMISES**

14. The subject premises, to be searched is described in the following paragraphs and in Attachment A.

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<sup>1</sup> See Exhibit 1 for Photos of Injuries.

15. Subject Premises is located 2 Miles North of the Sanostee Chapter House, Sanostee, New Mexico 87461, GPS coordinates 36.4419444, -108.8572222. The Subject Premises can be described as a large gated fenced area with a single-story residence, brown in color. A brown Hogan sits approximately twenty feet in front of the residence. A camping trailer, storage shed, and several non-working vehicles are located around the residence.

16. The Subject Premises is located within the exterior boundaries of the Navajo Nation.

### CONCLUSION

16. Based on the facts set forth in this affidavit, there is probable cause to believe there was a violation of 18 U.S.C. § 1153 - Offenses committed in Indian Country; and 18 U.S.C. § 113(a)(3) - Assault with a dangerous weapon, with intent to do bodily harm, committed by SMITH, and that evidence of such crimes may be found at the Subject Premises. Therefore, I submit that this affidavit supports probable cause for warrants to search the premises described in Attachment A and seize the items described in Attachment B.

17. Supervisory Assistant United States Attorney Elisa Dimas has reviewed this application.

18. I swear that this information is true and correct to the best of my knowledge and belief.

A handwritten signature in cursive script, appearing to read "L Hardy", written in black ink.

Lorraine Hardy, Special Agent

Federal Bureau of Investigation

Electronically SUBSCRIBED and telephonically SWORN to  
me this 14 day of October, 2022.

A handwritten signature in black ink, reading "B Paul Briones". The signature is written in a cursive, flowing style. The first letter "B" is large and prominent. The signature is positioned above a horizontal line.

HONORABLE B. PAUL BRIONES  
United States Magistrate Judge



## ATTACHMENT A

### PREMESIS TO BE SEARCHED

The property to be searched is described as follows:

2 Miles North of the Sanostee Chapter House, Sanostee, New Mexico 87461, GPS coordinates 36.4419444, -108.8572222. The Subject Premises can be described as a large gated fenced area with a single-story residence, brown in color. A brown Hogan sits approximately twenty feet in front of the residence. A camping trailer, storage shed, and several non-working vehicles located around the residence.



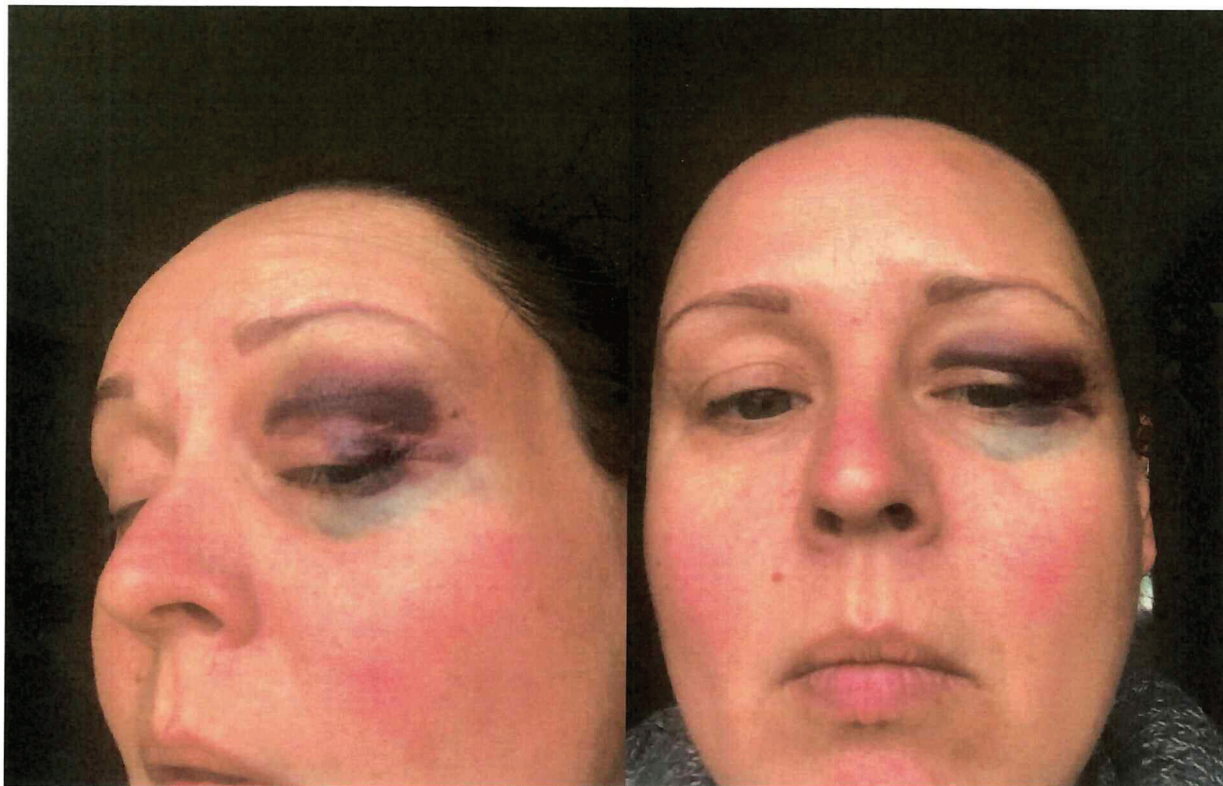
## **ATTACHMENT B**

The following materials, which constitute evidence or property designed or intended to use in the commission of a criminal offense, namely violations of 18 U.S.C. § 1153, and 18 U.S.C. § 113(a)(3). Described as Assault with a Dangerous Weapon, a crime in Indian country.

1. Walking Stick, described as five to six feet long and approximately four inches in diameter.



## Exhibit 1



JANE DOE Injuries



JOHN DOE Injuries